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IN THE HIGH COURT OF JUDICATURE AT BILASPUR(CHHATTISGARH

Writ Petition No. 359 /2001

PETITIONER : Kumari Ashalata Soni, B.A.L.L.B., aged 32 years D/o K.R. Soni, R/o Balodabazar, Distt. Raipur (Chhattisgarh).

V E R S U S

RESPONDENTS : (1) ~~President~~ Chairman, State Bar Council of ~~Jabalpur~~ Jabalpur M.P., Jabalpur

(2) State Bar Council of Madhya Pradesh and Chhattisgarh, Body Corporate constituted under Advocate Act 1961 High Court Building, Jabalpur, M.P.

WRIT PETITION UNDER ARTICLE 226/227 OF CONSTITUTION OF INDIA FOR ISSUE OF WRIT IN FORM OF MANDAMUS OR ANY OTHER APPROPRIATE WRIT OR DIRECTION :

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आदेश पत्रक

मामला क्रमांक W.P.859/ **सन्** **200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

26-7-2005

Mr. G.S. Agrawal, Senior Advocate with Mr. K.R. Nair, Advocate for the petitioner.

Mr. Awadh Tripathi, Advocate with Mr. Sunil Sahu, Advocate for the respondents.

The petitioner has preferred this writ petition under Article 226/227 of the Constitution of India, questioning the validity of letters dated 6-10-1998 and 20-1-2000 sent by the Bar Council of Madhya Pradesh, Jabalpur, whereby the petitioner's application for enrolment to register as Advocate to practice law was rejected on the ground that she has not passed law degree course as a regular candidate.

Brief facts leading to filing of this writ petition, as set out in the writ petition, are that the petitioner after completing graduation in Bachelor of Arts in the year 1992 from Pt. Ravishankar Shukla University, Raipur, applied for admission into 1st year of 3-Years L.L.B. course in the Government D.K. College, Baloda Bazaar. On account of closure of admission, the petitioner could not get admission in the 1st year L.L.B. course, however, she was allowed by the Principal to attend the law classes of the 1st year and the petitioner attended all the classes of the 1st year Law degree course. A certificate to that effect issued by the Principal, Govt. D.K. College, Baloda Bazaar is Annexure P-2. The petitioner regularly attended the classes and appeared in the 1st year L.L.B. examination as a

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

private student and she was declared pass, mark sheet is Annexure P-3. The syllabus for private and regular candidates was the same and certificate issued by the Principal to that effect is Annexure P-4. Thereafter, the petitioner took admission into 2nd year of L.L.B. 3-Years degree course as a regular student, she appeared in the examination and passed 2nd year of the L.L.B., mark sheet is Annexure P-6. In final year also the petitioner took admission as a regular student and she passed 3rd year examination in the year 1996-97, final year mark sheet is Annexure P-7. On 1st May, 1999, the petitioner was conferred degree of Bachelor of Law by Pt. Ravishankar Shukla University without mentioning the fact that the petitioner was non-collegiate student, degree is Annexure P-8. After completion of law course, the petitioner applied for enrolment as an Advocate under Section 24 of the Advocates Act, 1961. However, the petitioner has been deprived on the ground that she was not a regular student. Therefore, in the circumstances, action of the respondents is not legal as such, the respondents be directed to enroll the petitioner as an Advocate.

Return has been filed on behalf of the respondents in which it has been mentioned that as the petitioner appeared in the 1st year L.L.B. course as a private candidate, she is not entitled for registration as per the relevant clause of Section 24 of the Advocates Act, 1961, read with Rule 1 (1) (c) (Section-B) of the Bar Council of India Rules, and also in view of the judgment of Apex Court in the matter of **Bar Council of India and**

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 3 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

another vs. Aparna Basu Mallick and others with **Rattan Singh, I.A.S. vs. Bar Council of India and others** reported in **AIR 1994 SC 1334.**

I have heard learned counsel for the parties.

Learned counsel for the petitioner argued that the judgment relied upon by the respondents is not applicable in the present case. As per the certificate issued by the Principal, the petitioner attended all the classes of 1st year L.L.B. course. As the petitioner could not get admission into 1st year L.L.B. course, therefore, she was allowed to attend the classes as a private student and she attended all the lectures. Thereafter, in 2nd year and 3rd year she studied law as a regular student. As far as 1st year is concerned, the Principal issued certificate issued on 2-6-1999 Annexure P-2 saying that the petitioner attended all the classes. The petitioner had satisfied the requirement of Rules 1 (1) (c) and 3 (Section-B) of the Bar Council of India Rules.

On the other hand, learned counsel for the respondents argued that since the petitioner was not a regular student in 1st year L.L.B. course, therefore, she is not entitled for her enrolment as an Advocate in view of the above Supreme Court judgment.

Having heard learned counsel for the parties, I have perused the relevant rules. Under Section 24 (1) (c) (iii) of the Advocates Act, 1961, a person shall be qualified to be admitted as an advocate on a State roll, if he fulfils the condition of having undergone a three years' course of study

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in law from any University in India, which is recognized by the Bar Council of India. Section 49 (1) (d) of the Advocates Act, 1961, empowers the Bar Council of India to make rules, which may prescribe the standards of legal education to be observed by Universities in India and the inspection of Universities for that purpose. In pursuance of the said power, the Bar Council of India framed the Rules, Part-IV whereof is about Standards of Legal Education and Recognition of Degrees in Law for admission as advocates. Rule 1 (1) (c) (Section-B) of the Bar Council of India Rules prescribes that a degree of law obtained from the University shall not be recognized for purposes of Section 24 (1) (c) (iii) of the Act unless the condition stated in clause (c) are fulfilled, and under the said clause, a degree of law shall not be recognized unless the course of study in law has been by regular attendance at the requisite number of lectures, tutorials or moot courts in a college recognized by a University. The said provision has been incorporated with a view to ensure regular attendance of law classes.

In the light of above provisions, if we examine the case of the petitioner, in 1st year L.L.B. course, even though the petitioner appeared as a private student, it has been mentioned that on account of closure of admission, she could not get admission as a regular student, however, the Principal of Law College, Baloda Bazaar, allowed her to attend the classes regularly, and therefore, she attended all the classes. A certificate

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(Annexure P-2) to that effect has been issued by the Principal of Law College. After passing 1st year L.L.B. examination, the petitioner took admission in 2nd year L.L.B. course as a regular student, she also qualified in 2nd year, thereafter, again she took admission as a regular student in 3rd year, and she passed the said examination also. Ultimately, she obtained the law degree.

Therefore, in view of the above facts of the present case, I am of the considered opinion that the petitioner has successfully complied with the requirement of Rules 1 (1) (c) and 3 (Section-B) of the Bar Council of India Rules, because the requirement is that the course of study in law has been by regular attendance at the requisite number of lectures, tutorials or moot courts in a college recognized by a University. The petitioner regularly attended the classes of 1st year, 2nd year and 3rd year L.L.B. and she was a regular student of the College. Therefore, it cannot be said that the petitioner had not attended the classes and she appeared as a private candidate.

As far as the judgement of Supreme Court in the matter of **Bar Council of India (supra)** is concerned, the case of those candidates was entirely different in comparison to the present petitioner and they had not satisfied the requirement of Rule 1 (1) (c) of the Bar Council of India Rules, and that is why they had challenged the vires of the Rules also. But, in the instant case no vires has been challenged. In the case of Aparna

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -6-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Basu Mallick, she obtained degree as a non-collegiate student and there was a condition imposed by the University vide proviso added to the Regulations dated 14th December, 1979 that women candidates allowed to appear as non-collegiate students at the L.L.B. Examination shall be informed in advance that they shall not be eligible for enrolment as advocates and the degrees to be awarded to them shall bear an inscription to the effect that they have obtained the degree as non-collegiate students. Similarly, in the case of Rattan Singh, who was an I.A.S. Officer of Haryana cadre, he was a regular Government servant and he did not attend the classes. Therefore, facts of the cases of Aparna Basu Mallick & Rattan Singh are entirely different, as such, the said judgment is of no help to the respondents in the present case.

The emphasis of the Bar Council of India is to maintain standards of legal education and that can be satisfied only when the students attend classes regularly at the requisite number of lectures, tutorials or moot courts. In the present case, as has been mentioned above, the petitioner attended all the classes of 2nd and 3rd year L.L.B. course as a regular student and only in 1st year she attended the classes as a private student. Therefore, I am of the considered opinion that the action of respondent Bar Council is not in consonance with the Rules framed by the Bar Council of India and the same is liable to quashed.

(पीछे देखिये)

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Now, coming to the question raised by the respondents that Bar Council of India is a necessary party, as the Rules are framed by the Bar Council of India, I do not find any substance in this argument for the reason that vires of the Rules have not been challenged and here in this case, the State Bar Council of Madhya Pradesh refused to enroll the petitioner as an Advocate in consonance with the Rules. Therefore, the Bar Council of Madhya Pradesh (now Chhattisgarh) is the necessary party and the same has been arrayed as a party respondent.

In the result, the writ petition of the petitioner is allowed. Communications dated 6-10-1998 and 20-1-2000 sent by the Bar Council are quashed. The State Bar Council of Chhattisgarh is directed to consider the application of the petitioner for enrolment as an Advocate, in accordance with law. No order as to costs.

Parties are entitled for certified copy of this order.

Sd/-
L.C:BHADOO
Judge

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